

Appendix A

FEDERAL FISCAL YEAR 2002 CERTIFICATIONS AND ASSURANCES FOR FEDERAL TRANSIT ADMINISTRATION ASSISTANCE PROGRAMS

In accordance with 49 U.S.C. 5323(n), the following certifications and assurances have been compiled for Federal Transit Administration (FTA) programs. FTA requests each Applicant to provide as many certifications and assurances as needed to cover all programs for which it will seek FTA assistance in Federal Fiscal Year 2002. FTA strongly encourages the Applicant to submit its certifications and assurances through FTA's electronic award and management system.

The 16 Categories of certifications and assurances are listed by numbers 1 through 16 on the Cert's & Assurances tab page of the FTA electronic award and management system and on the opposite side of the Signature Page at the end of this document. Categories 2 through 16 will apply to some, but not all, applicants. The designation of the 16 categories corresponds to the circumstances mandating submission of specific certifications, assurances, or agreements.

1. CERTIFICATIONS AND ASSURANCES REQUIRED OF EACH APPLICANT

Each Applicant for FTA assistance awarded must provide all certifications and assurances in this Category "1." FTA may not award any Federal assistance until the Applicant provides these certifications and assurances by selecting Category "1."

A. Authority of Applicant and Its Representative

The authorized representative of the Applicant and attorney who sign these certifications, assurances, and agreements affirm that both the Applicant and its authorized representative have adequate authority under state and local law and the by-laws or internal rules of the Applicant organization to:

- (1) Execute and file the application for Federal assistance on behalf of the Applicant;
- (2) Execute and file the required certifications, assurances, and agreements on behalf of the Applicant binding the Applicant; and
- (3) Execute grant agreements and cooperative agreements with FTA on behalf of the Applicant.

B. Standard Assurances

The Applicant assures that it will comply with all applicable Federal statutes, regulations, executive orders, FTA circulars, and other Federal administrative requirements in carrying out any project supported by the FTA grant or cooperative agreement. The Applicant agrees that it is under a continuing obligation to comply with the terms and conditions of the grant agreement or cooperative agreement issued for its project with FTA. The Applicant recognizes that Federal laws, regulations, policies, and administrative practices might be modified from time to time and they may affect the implementation of the project. The Applicant agrees that the most recent Federal requirements will apply to the project, unless FTA issues a written determination otherwise.

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C. Debarment, Suspension, and Other Responsibility Matters for Primary Covered Transactions

As required by U.S. DOT regulations on Governmentwide Debarment and Suspension (Nonprocurement) at 49 CFR 29.510:

- (1) The Applicant (Primary Participant) certifies, to the best of its knowledge and belief, that it and its principals:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - (b) Have not, within a three (3) year period preceding this certification, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) transaction or contract under a public transaction, violation of Federal or state antitrust statutes, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, state, or local) with commission of any of the offenses listed in subparagraph (1)(b) of this certification; and
 - (d) Have not within a three-year period preceding this certification had one or more public transactions (Federal, state, or local) terminated for cause or default.
- (2) The Applicant also certifies that, if it later becomes aware of any information contradicting the statements of paragraph (1) above, it will promptly provide that information to FTA.
- (3) If the Applicant (Primary Participant) is unable to certify to all statements in paragraphs (1) and (2) of this certification, it shall indicate so in its applications, or in the transmittal letter or message accompanying its annual certifications and assurances, and provide a written explanation to FTA.

D. Drug-Free Workplace Agreement

As required by U.S. DOT regulations, "Drug-Free Workplace Requirements (Grants)," 49 CFR part 29, Subpart F, and as modified by 41 U.S.C. 702, the Applicant agrees that it will provide a drug-free workplace by:

- (1) Publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in its workplace and specifying the actions that will be taken against its employees for violation of that prohibition;
- (2) Establishing an ongoing drug-free awareness program to inform its employees about:
 - (a) The dangers of drug abuse in the workplace;
 - (b) Its policy of maintaining a drug-free workplace;
 - (c) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (d) The penalties that may be imposed upon its employees for drug abuse violations occurring in the workplace;
- (3) Making it a requirement that each of its employees to be engaged in the performance of the grant or cooperative agreement be given a copy of the statement required by paragraph (1) of this certification;
- (4) Notifying each of its employees in the statement required by paragraph (1) of this

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certification that, as a condition of employment financed with Federal assistance provided by the grant or cooperative agreement, the employee will be required to:

- (a) Abide by the terms of the statement; and
 - (b) Notify the employer (Applicant) in writing of any conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after that conviction;
- (5) Notifying FTA in writing, within ten (10) calendar days after receiving notice required by paragraph (4)(b) above from an employee or otherwise receiving actual notice of that conviction. The Applicant, as employer of any convicted employee, must provide notice, including position title, to every project officer or other designee on whose project activity the convicted employee was working. Notice shall include the identification number(s) of each affected grant or cooperative agreement;
- (6) Taking one of the following actions within thirty (30) calendar days of receiving notice under paragraph (4)(b) of this agreement with respect to any employee who is so convicted:
- (a) Taking appropriate personnel action against that employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (b) Requiring that employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, state, or local health, law enforcement, or other appropriate agency; and
- (7) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (1), (2), (3), (4), (5), and (6) of this agreement. The Applicant agrees to maintain a list identifying its headquarters location and each workplace it maintains in which project activities supported by FTA are conducted, and make that list readily accessible to FTA.

E. Intergovernmental Review Assurance

The Applicant assures that each application for Federal assistance it submits to FTA has been or will be submitted for intergovernmental review to the appropriate state and local agencies in accordance with applicable state requirements. The Applicant also assures that it has fulfilled or will fulfill the obligations imposed on FTA by U.S. DOT regulations, "Intergovernmental Review of Department of Transportation Programs and Activities," 49 CFR part 17.

F. Nondiscrimination Assurance

As required by 49 U.S.C. 5332 (which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity), Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, and U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act," 49 CFR part 21 at 21.7, the Applicant assures that it will comply with all requirements of 49 CFR part 21; FTA Circular 4702.1, "Title VI Program Guidelines for Federal Transit Administration Recipients", and other applicable directives, so that no person in the United States, on the basis of race, color, national origin, creed, sex, or age will be excluded from participation in, be denied the benefits of, or

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otherwise be subjected to discrimination in any program or activity (particularly in the level and quality of transportation services and transportation-related benefits) for which the Applicant receives Federal assistance awarded by the U.S. DOT or FTA as follows:

- (1) The Applicant assures that each project will be conducted, property acquisitions will be undertaken, and project facilities will be operated in accordance with all applicable requirements of 49 U.S.C. 5332 and 49 CFR part 21, and understands that this assurance extends to its entire facility and to facilities operated in connection with the project.
- (2) The Applicant assures that it will take appropriate action to ensure that any transferee receiving property financed with Federal assistance derived from FTA will comply with the applicable requirements of 49 U.S.C. 5332 and 49 CFR part 21.
- (3) The Applicant assures that it will promptly take the necessary actions to effectuate this assurance, including notifying the public that complaints of discrimination in the provision of transportation-related services or benefits may be filed with U.S. DOT or FTA. Upon request by U.S. DOT or FTA, the Applicant assures that it will submit the required information pertaining to its compliance with these requirements.
- (4) The Applicant assures that it will make any changes in its 49 U.S.C. 5332 and Title VI implementing procedures as U.S. DOT or FTA may request.
- (5) As required by 49 CFR 21.7(a)(2), the Applicant will include in each third party contract or subagreement provisions to invoke the requirements of 49 U.S.C. 5332 and 49 CFR part 21, and include provisions to invoke those requirements in deeds and instruments recording the transfer of real property, structures, improvements.

G. Disadvantaged Business Enterprise Assurance

In accordance with 49 CFR 26.13(a), the Recipient assures that it shall not discriminate on the basis of race, color, national origin, or sex in the implementation of the project and in the award and performance of any third party contract, or subagreement supported with Federal assistance derived from the U.S. DOT or in the administration of its DBE program or the requirements of 49 CFR part 26. The Recipient assures that it shall take all necessary and reasonable steps set forth in 49 CFR part 26 to ensure nondiscrimination in the award and administration of all third party contracts and subagreements supported with Federal assistance derived from the U.S. DOT. The Recipient's DBE program, as required by 49 CFR part 26 and approved by the U.S. DOT, will be incorporated by reference and made part of the grant agreement or cooperative agreement for any Federal assistance awarded by FTA or U.S.DOT. Implementation of this DBE program is a legal obligation of the Recipient, and failure to carry out its terms shall be treated as a violation of the grant agreement or cooperative agreement. Upon notification by the Government to the Recipient of its failure to implement its approved DBE program, the U.S. DOT may impose sanctions as provided for under 49 CFR part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001, and/or the Program Fraud Civil Remedies Act, 31 U.S.C. 3801 *et seq.*

H. Assurance of Nondiscrimination on the Basis of Disability

As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," at 49 CFR 27.9, the

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Applicant assures that, as a condition to the approval or extension of any Federal assistance awarded by FTA to construct any facility, obtain any rolling stock or other equipment, undertake studies, conduct research, or to participate in or obtain any benefit from any program administered by FTA, no otherwise qualified person with a disability shall be, solely by reason of that disability, excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any program or activity receiving or benefiting from Federal assistance administered by the FTA or any entity within U.S. DOT. The Applicant assures that project implementation and operations so assisted will comply with all applicable requirements of U.S. DOT regulations implementing the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, *et seq.*, and the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.* at 49 CFR parts 27, 37, and 38, and any applicable regulations and directives issued by other Federal departments or agencies.

I. Procurement Compliance

The Applicant certifies that its procurements and procurement system will comply with all applicable requirements imposed by Federal laws, executive orders, or regulations and the requirements of FTA Circular 4220.1D, "Third Party Contracting Requirements," and FTA third party contracting regulations when promulgated, as well as other requirements FTA may issue. The Applicant certifies that it will include in its contracts financed in whole or in part with FTA assistance all clauses required by Federal laws, executive orders, or regulations, and will ensure that each subrecipient and each contractor will also include in its subagreements and contracts financed in whole or in part with FTA assistance all applicable clauses required by Federal laws, executive orders, or regulations.

J. Certifications Required by the U.S. Office of Management and Budget (SF-424B and SF-424D)

As required by the U.S. Office of Management and Budget (OMB), the Applicant certifies that it:

- (1) Has the legal authority to apply for Federal assistance and the institutional, managerial, and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in its application;
- (2) Will give FTA, the Comptroller General of the United States and, if appropriate, the state, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives;
- (3) Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain;
- (4) Will initiate and complete the work within the applicable project time periods following receipt of FTA approval;
- (5) Will comply with all applicable Federal statutes relating to nondiscrimination including, but not limited to:

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- (a) Title VI of the Civil Rights Act, 42 U.S.C. 2000d, which prohibits discrimination on the basis of race, color, or national origin;
 - (b) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 through 1683, and 1685 through 1687, and U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25, which prohibits discrimination on the basis of sex;
 - (c) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, which prohibits discrimination on the basis of handicaps;
 - (d) The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 through 6107, which prohibit discrimination on the basis of age;
 - (e) The Drug Abuse Office and Treatment Act of 1972, Pub. L. 92-255, March 21, 1972, and amendments thereto, relating to nondiscrimination on the basis of drug abuse;
 - (f) The Comprehensive Alcohol Abuse and Alcoholism Prevention Act of 1970, Pub. L. 91-616, Dec. 31, 1970, and amendments thereto, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
 - (g) The Public Health Service Act of 1912, as amended, 42 U.S.C. 290dd-3 and 290ee-3, related to confidentiality of alcohol and drug abuse patient records;
 - (h) Title VIII of the Civil Rights Act, 42 U.S.C. 3601 *et seq.*, relating to nondiscrimination in the sale, rental, or financing of housing;
 - (i) Any other nondiscrimination provisions in the specific statutes under which Federal assistance for the project may be provided including, but not limited to section 1101(b) of the Transportation Equity Act for the 21st Century, 23 U.S.C. 101 note, which provides for participation of disadvantaged business enterprises in FTA programs; and
 - (j) The requirements of any other nondiscrimination statute(s) that may apply to the project;
- (6) Will comply, or has complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (Uniform Relocation Act) 42 U.S.C. 4601 *et seq.*, which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal of federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases. As required by U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," at 49 CFR 24.4, and sections 210 and 305 of the Uniform Relocation Act, 42 U.S.C. 4630 and 4655, the Applicant assures that it has the requisite authority under applicable state and local law and will comply or has complied with the requirements of the Uniform Relocation Act, 42 U.S.C. 4601 *et seq.*, and U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," 49 CFR part 24 including, but not limited to the following:
- (a) The Applicant will adequately inform each affected person of the benefits, policies, and procedures provided for in 49 CFR part 24;
 - (b) The Applicant will provide fair and reasonable relocation payments and assistance required by 42 U.S.C. 4622, 4623, and 4624; 49 CFR part 24; and any applicable FTA procedures, to or for families, individuals, partnerships, corporations or associations displaced as a result of any project financed with FTA assistance;
 - (c) The Applicant will provide relocation assistance programs offering the services described in 42 U.S.C. 4625 to such displaced families, individuals, partnerships, corporations, or

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- associations in the manner provided in 49 CFR part 24 and FTA procedures;
- (d) Within a reasonable time before displacement, the Applicant will make available comparable replacement dwellings to displaced families and individuals as required by 42 U.S.C. 4625(c)(3);
 - (e) The Applicant will carry out the relocation process in such a manner as to provide displaced persons with uniform and consistent services, and will make available replacement housing in the same range of choices with respect to such housing to all displaced persons regardless of race, color, religion, or national origin;
 - (f) In acquiring real property, the Applicant will be guided to the greatest extent practicable under state law, by the real property acquisition policies of 42 U.S.C. 4651 and 4652;
 - (g) The Applicant will pay or reimburse property owners for necessary expenses as specified in 42 U.S.C. 4653 and 4654, with the understanding that FTA will participate in the Applicant's eligible costs of providing payments for those expenses as required by 42 U.S.C. 4631;
 - (h) The Applicant will execute such amendments to third party contracts and subagreements financed with FTA assistance and execute, furnish, and be bound by such additional documents as FTA may determine necessary to effectuate or implement the assurances provided herein; and
 - (i) The Applicant agrees to make these assurances part of or incorporate them by reference into any third party contract or subagreement, or any amendments thereto, relating to any project financed by FTA involving relocation or land acquisition and provide in any affected document that these relocation and land acquisition provisions shall supersede any conflicting provisions;
- (7) To the extent applicable, will comply with the Davis-Bacon Act, as amended, 40 U.S.C. 276a through 276a(7), the Copeland Act, as amended, 18 U.S.C. 874 and 40 U.S.C. 276c, and the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. 327 through 333, regarding labor standards for federally-assisted subagreements;
 - (8) To the extent applicable, will comply with flood insurance purchase requirements of section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012a(a), requiring recipients in a special flood hazard area to participate in the program and purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more;
 - (9) Will comply with the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4801, which prohibits the use of lead-based paint in construction or rehabilitation of residence structures;
 - (10) Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities on which a construction project supported with FTA assistance takes place without permission and instructions from the awarding agency;
 - (11) Will record the Federal interest in the title of real property in accordance with FTA directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project;
 - (12) Will comply with FTA requirements concerning the drafting, review, and approval of construction plans and specifications of any construction project supported with FTA assistance. As required by U.S. DOT regulations, "Seismic Safety," 49 CFR 41.117(d), before accepting delivery of any building financed with FTA assistance, it will obtain a certificate of compliance with 49 CFR part 41 seismic design and construction requirements;

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- (13) Will provide and maintain competent and adequate engineering supervision at the construction site of any project supported with FTA assistance to ensure that the complete work conforms with the approved plans and specifications and will furnish progress reports and such other information as may be required by FTA or the state;
- (14) Will comply with environmental standards that may be prescribed to implement the following Federal laws and executive orders:
 - (a) Institution of environmental quality control measures under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.* and Executive Order No. 11514, as amended, 42 U.S.C. 4321 note;
 - (b) Notification of violating facilities pursuant to Executive Order No. 11738, 42 U.S.C. 7606 note;
 - (c) Protection of wetlands pursuant to Executive Order No. 11990, 42 U.S.C. 4321 note;
 - (d) Evaluation of flood hazards in floodplains in accordance with Executive Order 11988, 42 U.S.C. 4321 note;
 - (e) Assurance of project consistency with the approved state management program developed pursuant to the requirements of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 *et seq.*;
 - (f) Conformity of Federal actions to State (Clean Air) Implementation Plans under section 176(c) of the Clean Air Act of 1955, as amended, 42 U.S.C. 7401 *et seq.*;
 - (g) Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300h *et seq.*;
 - (h) Protection of endangered species under the Endangered Species Act of 1973, as amended, Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*; and
 - (i) Environmental protections for Federal transit programs, including, but not limited to protections for a park, recreation area, or wildlife or waterfowl refuge of national, state, or local significance or any land from a historic site of national, state, or local significance used in a transit project as required by 49 U.S.C. 303;
 - (j) Will comply with the Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. 1271 *et seq.* relating to protecting components of the national wild and scenic rivers systems; and
 - (k) Will assist FTA in assuring compliance with section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470f, Executive Order No. 11593 (identification and protection of historic properties), 16 U.S.C. 470 note, and the Archaeological and Historic Preservation Act of 1974, as amended, 16 U.S.C. 469a-1 *et seq.*;
- (15) To the extent applicable, will comply with provisions of the Hatch Act, 5 U.S.C. 1501 through 1508, and 7324 through 7326, which limit the political activities of state and local agencies and their officers and employees whose principal employment activities are financed in whole or part with Federal funds including a Federal loan, grant, or cooperative agreement, but pursuant to 23 U.S.C. 142(g), does not apply to a nonsupervisory employee of a transit system (or of any other agency or entity performing related functions) receiving FTA assistance to whom the Hatch Act does not otherwise apply;
- (16) Will comply with the National Research Act, Pub. L. 93-348, July 12, 1974, as amended, regarding the protection of human subjects involved in research, development, and related activities supported by Federal assistance and DOT regulations, "Protection of Human

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Subjects," 49 CFR part 11;

- (17) Will comply with the Laboratory Animal Welfare Act of 1966, as amended, 7 U.S.C. 2131 *et seq.* pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by FTA assistance;
- (18) Will have performed the financial and compliance audits required by the Single Audit Act Amendments of 1996, 31 U.S.C. 7501 *et seq.* and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations and Department of Transportation provisions of OMB A-133 Compliance Supplement, March 2001"; and
- (19) Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing the project.

2. LOBBYING CERTIFICATION FOR AN APPLICATION EXCEEDING \$100,000

An Applicant that submits, or intends to submit this fiscal year, an application for Federal assistance exceeding \$100,000 must provide the following certification. FTA may not award Federal assistance for an application exceeding \$100,000 until the Applicant provides this certification by selecting Category "2."

- A. As required by U.S. DOT regulations, "New Restrictions on Lobbying," at 49 CFR 20.110, the Applicant's authorized representative certifies to the best of his or her knowledge and belief that for each application for a Federal assistance exceeding \$100,000:
 - (1) No Federal appropriated funds have been or will be paid, by or on behalf of the Applicant, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress pertaining to the award of any Federal assistance, or the extension, continuation, renewal, amendment, or modification of any Federal assistance agreement; and
 - (2) If any funds other than Federal appropriated funds have been or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any application to FTA for Federal assistance, the Applicant assures that it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," including the information required by the form's instructions, which may be amended to omit such information as permitted by 31 U.S.C. 1352.
- B. The Applicant understands that this certification is a material representation of fact upon which reliance is placed and that submission of this certification is a prerequisite for providing Federal assistance for a transaction covered by 31 U.S.C. 1352. The Applicant also understands that any person who fails to file a required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. CERTIFICATION PERTAINING TO THE EFFECTS OF THE PROJECT ON PRIVATE MASS TRANSPORTATION COMPANIES

A State or local government Applicant seeking Federal assistance authorized by 49 U.S.C. chapter 53 to acquire the property of or an interest therein of a private mass transportation

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company or to operate mass transportation equipment or a facility in competition with or in addition to transportation service provided by an existing mass transportation company must provide the following certification. FTA may not award Federal assistance for that project until the Applicant provides this certification by selecting Category "3."

As required by 49 U.S.C. 5323(a)(1), the Applicant certifies that before it acquires property or an interest in property of a private mass transportation company or operates mass transportation equipment or a facility in competition with or in addition to transportation service provided by an existing mass transportation company it has or will have:

- A. Found that the assistance is essential to carrying out a program of projects as determined by the plans and programs of the metropolitan planning organization;
- B. Provided for the participation of private mass transportation companies to the maximum extent feasible consistent with applicable FTA requirements and policies;
- C. Paid just compensation under state or local law to a private mass transportation company for its franchises or property acquired; and
- D. Acknowledged that the assistance falls within the labor standards compliance requirements of 49 U.S.C. 5333(a) and 5333(b).

4. PUBLIC HEARING CERTIFICATION FOR A CAPITAL PROJECT THAT WILL SUBSTANTIALLY AFFECT A COMMUNITY OR ITS TRANSIT SERVICE

An Applicant seeking Federal assistance authorized by 49 U.S.C. chapter 53 for a capital project that will substantially affect a community or the community's mass transportation service must provide the following certification. FTA may not award Federal assistance for that project until the Applicant provides this certification by selecting Category "4."

As required by 49 U.S.C. 5323(b), the Applicant certifies that it has, or before submitting its application, will have:

- A. Provided an adequate opportunity for a public hearing with adequate prior notice of the proposed project published in a newspaper of general circulation in the geographic area to be served;
- B. Held that hearing and provided FTA a transcript or detailed report summarizing the issues and responses, unless no one with a significant economic, social, or environmental interest requests a hearing;
- C. Considered the economic, social, and environmental effects of the project; and
- D. Determined that the project is consistent with official plans for developing the urban area.

5. CERTIFICATION OF PRE-AWARD AND POST-DELIVERY REVIEWS REQUIRED FOR ACQUISITION OF ROLLING STOCK

An Applicant seeking FTA assistance to acquire rolling stock must provide the following certification. FTA may not provide assistance to acquire rolling stock until the Applicant provides this certification by selecting Category "5."

As required by 49 U.S.C. 5323(m) and implementing FTA regulations at 49 CFR 663.7, the

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Applicant certifies that it will comply with the requirements of 49 CFR part 663 when procuring revenue service rolling stock. Among other things, the Applicant agrees to conduct or cause to be conducted the requisite pre-award and post-delivery reviews, and maintain on file the certifications required by 49 CFR part 663, subparts B, C, and D.

6. BUS TESTING CERTIFICATION REQUIRED FOR NEW BUS ACQUISITIONS

An Applicant seeking FTA assistance to acquire new buses must provide the following certification. FTA may not provide assistance for the acquisition of new buses until the Applicant provides this certification by selecting Category "6."

As required by FTA regulations, "Bus Testing," at 49 CFR 665.7, the Applicant certifies that before expending any Federal assistance to acquire the first bus of any new bus model or any bus model with a new major change in configuration or components or authorizing final acceptance of that bus (as described in 49 CFR part 665):

- A. The model of the bus will have been tested at a bus testing facility approved by FTA; and
- B. It will have received a copy of the test report prepared on the bus model.

7. CHARTER SERVICE AGREEMENT

An Applicant seeking FTA assistance to acquire or operate transportation equipment or facilities financed with Federal assistance authorized by 49 U.S.C. chapter 53 (except 49 U.S.C. 5310) or Title 23, U.S.C must enter into the following charter service agreement. FTA may not provide assistance for projects authorized by 49 U.S.C. chapter 53(except 49 U.S.C. 5310) or Title 23, U.S.C. until the Applicant enters into this agreement by selecting Category "7."

- A. As required by 49 U.S.C. 5323(d) and FTA regulations, "Charter Service," at 49 CFR 604.7, the Applicant agrees that it and its recipients will:
 - (1) Provide charter service that uses equipment or facilities acquired with Federal assistance authorized for 49 U.S.C. 5307, 5309, or 5311 or Title 23 U.S.C., only to the extent that there are no private charter service operators willing and able to provide the charter service that it or its recipients desire to provide, unless one or more of the exceptions in 49 CFR 604.9 applies; and
 - (2) Comply with the provisions of 49 CFR part 604 before they provide any charter service using equipment or facilities acquired with Federal assistance authorized for the above statutes.
- B. The Applicant understands that the requirements of 49 CFR part 604 will apply to any charter service provided, the definitions in 49 CFR part 604 apply to this agreement, and violation of this agreement may require corrective measures and the imposition of penalties, including debarment from the receipt of further Federal assistance for transportation.

8. SCHOOL TRANSPORTATION AGREEMENT

An Applicant seeking FTA assistance to acquire or operate transportation facilities and equipment using Federal assistance authorized by 49 U.S.C. chapter 53 or Title 23, U.S.C. must

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agree as follows. FTA may not provide assistance for transportation facilities until the Applicant enters into this Agreement by selecting Category "8."

- A. As required by 49 U.S.C. 5323(f) and FTA regulations, "School Bus Operations," at 49 CFR 605.14, the Applicant agrees that it and all its recipients will:
 - (1) Engage in school transportation operations in competition with private school transportation operators only to the extent permitted by 49 U.S.C. 5323(f), and implementing regulations; and
 - (2) Comply with the requirements of 49 CFR part 605 before providing any school transportation using equipment or facilities acquired with Federal assistance awarded by FTA and authorized by 49 U.S.C. chapter 53 or Title 23 U.S.C. for transportation projects.
- B. The Applicant understands that the requirements of 49 CFR part 605 will apply to any school transportation it provides, the definitions of 49 CFR part 605 apply to this school transportation agreement, and a violation of this agreement may require corrective measures and the imposition of penalties, including debarment from the receipt of further Federal assistance for transportation.

9. CERTIFICATION REQUIRED FOR THE DIRECT AWARD OF FTA ASSISTANCE TO AN APPLICANT FOR ITS DEMAND RESPONSIVE SERVICE

An Applicant seeking direct Federal assistance to support demand responsive service must provide the following certification. FTA may not award Federal assistance directly to an Applicant to support its demand responsive service until the Applicant provides this certification by selecting Category "9."

As required by U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," at 49 CFR 37.77, the Applicant certifies that its demand responsive service offered to persons with disabilities, including persons who use wheelchairs, is equivalent to the level and quality of service offered to persons without disabilities. When viewed in its entirety, the Applicant's service for persons with disabilities is provided in the most integrated setting feasible and is equivalent with respect to: (1) response time, (2) fares, (3) geographic service area, (4) hours and days of service, (5) restrictions on trip purpose, (6) availability of information and reservation capability, and (7) constraints on capacity or service availability.

10. PREVENTION OF ALCOHOL MISUSE AND PROHIBITED DRUG USE CERTIFICATION

If the Applicant is required by Federal regulations to provide the following certification concerning its activities to prevent alcohol misuse and prohibited drug use in its transit operations, FTA may not provide Federal assistance to that Applicant until it provides this certification by selecting Category "10."

As required by FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," at 49 CFR part 665, subpart I, the Applicant certifies that it has established

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and implemented an anti-drug and alcohol misuse program, and has complied with or will comply with all applicable requirements of FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," at 49 CFR part 665.

11. CERTIFICATION REQUIRED FOR INTEREST OR OTHER FINANCING COSTS

An Applicant that intends to request reimbursement of interest or other financing costs incurred for its capital projects must provide the following certification. FTA may not provide assistance to support those costs until the Applicant provides this certification by selecting Category "11."

As required by 49 U.S.C. 5307(g), 49 U.S.C. 5309(g)(2)(B), 49 U.S.C. 5309(g)(3)(A), and 49 U.S.C. 5309(n), the Applicant certifies that it will not seek reimbursement for interest and other financing costs unless its records demonstrate it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent FTA might require.

12. INTELLIGENT TRANSPORTATION SYSTEM PROGRAM ASSURANCE

An Applicant for FTA assistance for an Intelligent Transportation System Project (ITS Project), defined as any project that in whole or in part funds the acquisition of technologies or systems of technologies that provide or significantly contribute to the provision of one or more ITS user services as defined in the National ITS Architecture," must provide the following assurance. FTA may not award any Federal assistance until the Applicant provides this assurance by selecting Category "12."

In compliance with Section VII of FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," at 66 Fed. Reg. 1459, January 8, 2001, in the course of implementing an ITS Project, the Applicant assures that it will comply, and require its third party contractors and subrecipients to comply, with all applicable requirements imposed by Section V (Regional ITS Architecture) and Section VI (Project Implementation) of that Notice.

13. CERTIFICATIONS AND ASSURANCES FOR THE URBANIZED AREA FORMULA PROGRAM, THE JOB ACCESS AND REVERSE COMMUTE PROGRAM, AND THE CLEAN FUELS FORMULA PROGRAM

Each Applicant to FTA for Urbanized Area Formula Program assistance authorized by 49 U.S.C. 5307, each Applicant for Job Access and Reverse Commute Program assistance authorized by section 3037 of the Transportation Equity Act for the 21st Century, 49 U.S.C. 5309 note, and each Applicant for the Clean Fuels Formula Program assistance authorized by 49 U.S.C. 5308 must provide the following certifications in connection with its application. FTA may not award Urbanized Area Formula Program assistance, the Job Access and Reverse Commute Program assistance, or the Clean Fuels Formula Program assistance to the Applicant until the Applicant provides these certifications and assurances by selecting Category "13." A state or other Applicant providing certifications and assurances on behalf of its prospective subrecipients is expected to obtain sufficient documentation from those subrecipients to assure the validity of its certifications and assurances.

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In addition, each Applicant that has received Transit Enhancement funding authorized by 49 U.S.C. 5307(k)(1) must include within its quarterly report for the fourth quarter of the preceding Federal fiscal year a list of the projects carried out during the preceding Federal fiscal year with those Transit Enhancement funds. That list constitutes the report of transit projects carried out during the preceding fiscal year to be submitted as part of the Applicant's annual certifications and assurances, as required by 49 U.S.C. 5307(k)(3), and is thus incorporated by reference and made part of that Applicant's annual certifications and assurances. FTA may not award Urbanized Area Formula Program assistance to any Applicant that has received Transit Enhancement funding authorized by 49 U.S.C. 5307(k)(1), unless that Applicant's quarterly report for the fourth quarter of the preceding Federal fiscal year has been submitted to FTA and that report contains the requisite list.

A. Certifications Required by Statute

- (1) As required by 49 U.S.C. 5307(d)(1)(A) through (J), the Applicant certifies that:
 - (a) It has or will have the legal, financial, and technical capacity to carry out the proposed program of projects;
 - (b) It will adequately maintain the equipment and facilities;
 - (c) It will ensure that elderly or handicapped persons, or any person presenting a Medicare card issued to himself or herself pursuant to title II or title XVIII of the Social Security Act (42 U.S.C. 401 *et seq.* or 42 U.S.C. 1395 *et seq.*), will be charged for transportation during non-peak hours using or involving a facility or equipment of a project financed with Federal assistance authorized for 49 U.S.C. 5307, or for the Job Access and Reverse Commute Program at section 3037 of the Transportation Equity Act for the 21st Century (TEA-21), 49 U.S.C. 5309 note, not more than fifty (50) percent of the peak hour fare;
 - (d) In carrying out a procurement financed with Federal assistance authorized for the Urbanized Area Formula Program at 49 U.S.C. 5307, or the Job Access and Reverse Commute Program at section 3037 of TEA-21, 49 U.S.C. 5309 note, it will use competitive procurement (as defined or approved by the Secretary), it will not use a procurement using exclusionary or discriminatory specifications, and it will comply with applicable Buy America laws in carrying out a procurement;
 - (e) It has complied or will comply with the requirements of 49 U.S.C. 5307(c). Specifically, it has made available, or before submitting its application, it will make available: (1) to the public information on amounts available for the Urbanized Area Formula Program at 49 U.S.C. 5307 and, if applicable, the Job Access and Reverse Commute Grant Program, 49 U.S.C. 5309 note, and the program of projects it proposes to undertake with those funds; (2) in consultation with interested parties including private transportation providers, develop a proposed program of projects for activities to be financed; (3) publish a proposed program of projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed program and submit comments on the proposed program and the performance of the Applicant; (4) provide an opportunity for a public hearing to obtain the views of citizens on the proposed program of projects; and (5) ensure that the proposed program of projects provides for the coordination of transportation services assisted under 49 U.S.C.

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- 5336 with transportation services assisted by another Federal Government source; (6) consider comments and views received, especially those of private transportation providers, in preparing the final program of projects; and (7) make the final program of projects available to the public;
- (f) It has or will have available and will provide the amount of funds required by 49 U.S.C. 5307(e) and applicable FTA policy (specifying Federal and local shares of project costs);
 - (g) It will comply with: 49 U.S.C. 5301(a) (requirements for transportation systems that maximize mobility and minimize fuel consumption and air pollution); 49 U.S.C. 5301(d) (requirements for transportation of the elderly and persons with disabilities); 49 U.S.C. 5303 through 5306 (planning requirements); and 49 U.S.C. 5301(d) (special efforts for designing and providing mass transportation for the elderly and persons with disabilities);
 - (h) It has a locally developed process to solicit and consider public comment before raising fares or implementing a major reduction of transportation; and
 - (i) As required by 49 U.S.C. 5307(d)(1)(J), unless it has determined that it is not necessary to expend one (1) percent of the amount of Federal assistance it receives for this fiscal year apportioned in accordance with 49 U.S.C. 5336 for transit security projects, it will expend at least one (1) percent of the amount of that assistance for transit security projects, including increased lighting in or adjacent to a transit system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, emergency telephone line or lines to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned transit system.
- (2) As required by 49 U.S.C. 5307(k)(3), if it has received Transit Enhancement funds authorized by 49 U.S.C. 5307(k)(1), its quarterly report for the fourth quarter of the preceding Federal fiscal year includes a list of projects implemented in the preceding Federal fiscal year using Transit Enhancement funds, and that report is made part of its certifications and assurances.

B. Certification Required for Capital Leasing

As required by FTA regulations, "Capital Leases," at 49 CFR 639.15(b)(1) and 49 CFR 639.21, to the extent the Applicant uses Federal assistance authorized for 49 U.S.C. 5307 or section 3037 of TEA-21, 49 U.S.C. 5309 note, to acquire any capital asset by lease, the Applicant certifies that:

- (1) It will not use Federal assistance authorized for 49 U.S.C. 5307 or section 3037 of TEA-21, 49 U.S.C. 5309 note, to finance the cost of leasing any capital asset until it performs calculations demonstrating that leasing the capital asset would be more cost-effective than purchasing or constructing a similar asset;
- (2) It will complete these calculations before entering into the lease or before receiving a capital grant for the asset, whichever is later; and
- (3) It will not enter into a capital lease for which FTA can only provide incremental funding unless it has the financial capacity to meet its future obligations under the lease in the event Federal assistance is not available for capital projects in subsequent years.

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C. Certification Required for Sole Source Purchase of Associated Capital Maintenance Item

As required by 49 U.S.C. 5325(c), to the extent that the Applicant procures an associated capital maintenance item under the authority of 49 U.S.C. 5307(b)(1), the Applicant certifies that it will use competition to procure an associated capital maintenance item unless the manufacturer or supplier of that item is the only source for the item and the price of the item is no more than the price similar customers pay for the item, and maintain sufficient records pertaining to each such procurement on file easily retrievable for FTA inspection.

D. Clean Fuels Program Certification

As required by 49 U.S.C. 5308(c)(2), the Applicant certifies that, in connection with any application for assistance authorized for the Clean Fuels Formula Program, vehicles purchased with grant funds made available for 49 U.S.C. 5308 will be operated only with clean fuels.

14. CERTIFICATIONS AND ASSURANCES FOR THE ELDERLY AND PERSONS WITH DISABILITIES PROGRAM

An Applicant that intends to administer the Elderly and Persons with Disabilities Program on behalf of a state must provide the following certifications and assurances. In providing certifications and assurances on behalf of its prospective subrecipients, the Applicant is expected to obtain sufficient documentation from those subrecipients to assure the validity of its certifications and assurances. FTA may not award assistance for the Elderly and Persons with Disabilities Program until the Applicant provides these certifications and assurances by selecting Category "14."

The Applicant administering on behalf of the state the Elderly and Persons with Disabilities Program authorized by 49 U.S.C. 5310 certifies and assures that the following requirements and conditions will be fulfilled:

- A. The state organization serving as the Applicant and each subrecipient has or will have the necessary legal, financial, and managerial capability to apply for, receive and disburse Federal assistance authorized for 49 U.S.C. 5310; and to implement and manage the project.
- B. The state assures that each subrecipient either is recognized under state law as a private nonprofit organization with the legal capability to contract with the state to carry out the proposed project, or is a public body that has met the statutory requirements to receive Federal assistance authorized for 49 U.S.C. 5310.
- C. The private nonprofit subrecipient's application for 49 U.S.C. 5310 assistance contains information from which the state concludes that the transit service provided or offered to be provided by existing public or private transit operators is unavailable, insufficient, or inappropriate to meet the special needs of the elderly and persons with disabilities.
- D. The state assures that sufficient non-Federal funds have been or will be committed to provide the required local share.
- E. The subrecipient has, or will have by the time of delivery, sufficient funds to operate and maintain the vehicles and equipment purchased with Federal assistance awarded for this project.

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- F. The state assures that before issuing the state's formal approval of a project, its Elderly and Persons with Disabilities Formula Program is included in the Statewide Transportation Improvement Program as required by 23 U.S.C. 135; all projects in urbanized areas recommended for approval are included in the annual element of the metropolitan Transportation Improvement Program in which the subrecipient is located; and any public body that is a prospective subrecipient of capital assistance has provided an opportunity for a public hearing.
- G. The state recognizes that the subrecipient, rather than the state itself, will be ultimately responsible for implementing many Federal requirements covered by the certifications the state has signed. Having taken appropriate measures to secure the necessary compliance by each subrecipient, the state assures, on behalf of each subrecipient, that each subrecipient has:
- (1) Coordinated or will coordinate to the maximum extent feasible with other transportation providers and users, including social service agencies authorized to purchase transit service;
 - (2) Complied or will comply with all applicable civil rights requirements;
 - (3) Complied or will comply with applicable requirements of U.S. DOT regulations on participation of disadvantaged business enterprise in U.S. DOT programs;
 - (4) Complied or will comply with Federal requirements regarding transportation of elderly persons and persons with disabilities;
 - (5) Complied with or will comply with applicable provisions of 49 CFR part 605 pertaining to school transportation operations;
 - (6) Viewing its demand responsive service to the general public in its entirety, complied or will comply with the requirement to provide demand responsive service to persons with disabilities, including persons who use wheelchairs, meeting the standard of equivalent service set forth in 40 CFR 37.77(c), if it purchases non-accessible vehicles for use in demand responsive service for the general public;
 - (7) Established or will establish a procurement system and conducted or will conduct its procurements in compliance with all applicable requirements imposed by Federal laws, executive orders, or regulations and the requirements of FTA Circular 4220.1D, "Third Party Contracting Requirements," and other implementing requirements FTA may issue;
 - (8) Complied or will comply with the requirement that its project provides for the participation of private mass transportation companies to the maximum extent feasible;
 - (9) Paid or will pay just compensation under state or local law to each private mass transportation company for its franchise or property acquired under the project;
 - (10) Complied or will comply with all applicable lobbying requirements for each application exceeding \$100,000;
 - (11) Complied or will comply with all applicable nonprocurement suspension and debarment requirements;
 - (12) Complied or will comply with all applicable bus testing requirements for new bus models;
 - (13) Complied with, or to the extent required by FTA, will comply with, applicable FTA Intelligent Transportation System (ITS) architecture requirements; and
 - (14) Complied or will comply with all applicable pre-award and post-delivery review requirements.

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- H. Unless otherwise noted, each of the subrecipient's projects qualifies for a categorical exclusion and does not require further environmental approvals, as described in the joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," at 23 CFR 771.117(c). The state certifies that financial assistance will not be provided for any project that does not qualify for a categorical exclusion described in 23 CFR 771.117(c) until FTA has made the required environmental finding. The state further certifies that no financial assistance will be provided for a project requiring a conformity finding in accordance with the Environmental Protection Agency's Clean Air Conformity regulations at 40 CFR parts 51 and 93, until FTA makes the required conformity finding.
- I. The state will enter into a written agreement with each subrecipient stating the terms and conditions of assistance by which the project will be undertaken and completed.
- J. The state recognizes the authority of FTA, U.S. DOT, and the Comptroller General of the United States to conduct audits and reviews to verify compliance with the foregoing requirements and stipulations, and assures that, upon request, the State and its subrecipients will make the necessary records available to FTA, U.S. DOT and the Comptroller General of the United States. The state also acknowledges its obligation under 49 CFR 18.40(a) to monitor project activities carried out by its subrecipients to assure compliance with applicable Federal requirements.

15. CERTIFICATIONS AND ASSURANCES FOR THE NONURBANIZED AREA FORMULA PROGRAM

An Applicant that intends to administer the Nonurbanized Area Formula Program on behalf of a state must provide the following certifications and assurances. In providing certifications and assurances on behalf of its prospective subrecipients, the Applicant is expected to obtain sufficient documentation from those subrecipients to assure the validity of its certifications and assurances. FTA may not award Nonurbanized Area Formula Program assistance to the Applicant until the Applicant provides these certifications and assurances by selecting Categories "1" through "11" and "15."

The Applicant administering on behalf of the state the Nonurbanized Area Formula Program authorized by 49 U.S.C. 5311 certifies and assures that the following requirements and conditions will be fulfilled:

- A. The state organization serving as the Applicant and each subrecipient has or will have the necessary legal, financial, and managerial capability to apply for, receive and disburse Federal assistance authorized for 49 U.S.C. 5311; and to implement and manage the project.
- B. The state assures that sufficient non-Federal funds have been or will be committed to provide the required local share.
- C. The state assures that before issuing the state's formal approval of the project, its Nonurbanized Area Formula Program is included in the Statewide Transportation Improvement Program as required by 23 U.S.C. 135; to the extent applicable, projects are included in a metropolitan Transportation Improvement Program.
- D. The state has provided for a fair and equitable distribution of Federal assistance authorized for 49 U.S.C. 5311 within the state, including Indian reservations within the state.
- E. The state recognizes that the subrecipient, rather than the state itself, will be ultimately

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responsible for implementing many Federal requirements covered by the certifications the state has signed. Having taken appropriate measures to secure the necessary compliance by each subrecipient, the state assures, on behalf of each subrecipient, that each subrecipient has:

- (1) Coordinated or will coordinate to the maximum extent feasible with other transportation providers and users, including social service agencies authorized to purchase transit service;
- (2) Complied or will comply with all applicable civil rights requirements;
- (3) Complied or will comply with applicable requirements of U.S. DOT regulations on participation of disadvantaged business enterprise in U.S. DOT programs;
- (4) Complied or will comply with Federal requirements regarding transportation of elderly persons and persons with disabilities;
- (5) Complied or will comply with the transit employee protective provisions of 49 U.S.C. 5333(b), by one of the following actions: (1) signing the Special Warranty for the Nonurbanized Area Formula Program, (2) agreeing to alternative comparable arrangements approved by the Department of Labor (DOL), or (3) obtaining a waiver from DOL; and the state has certified the subrecipient's compliance to DOL;
- (6) Complied or will comply with 49 CFR part 604 in the provision of any charter service provided with equipment or facilities acquired with FTA assistance;
- (7) Complied with or will comply with applicable provisions of 49 CFR part 605 pertaining to school transportation operations;
- (8) Viewing its demand responsive service to the general public in its entirety, complied or will comply with the requirement to provide demand responsive service to persons with disabilities, including persons who use wheelchairs, meeting the standard of equivalent service set forth in 40 CFR 37.77(c), if it purchases non-accessible vehicles for use in demand responsive service for the general public;
- (9) Established or will establish a procurement system and conducted or will conduct its procurements in compliance with all applicable requirements imposed by Federal laws, executive orders, or regulations and the requirements of FTA Circular 4220.1D, "Third Party Contracting Requirements," and other implementing requirements FTA may issue;
- (10) Complied or will comply with the requirement that its project provides for the participation of private enterprise to the maximum extent feasible;
- (11) Paid or will pay just compensation under state or local law to each private mass transportation company for its franchise or property acquired under the project;
- (12) Complied or will comply with all applicable lobbying requirements for each application exceeding \$100,000;
- (13) Complied or will comply with all applicable nonprocurement suspension and debarment requirements;
- (14) Complied or will comply with all applicable bus testing requirements for new bus models;
- (15) Complied or will comply with all applicable pre-award and post-delivery review requirements;
- (16) Complied with or will comply with all assurances FTA requires for projects involving real property;
- (17) Complied with, or to the extent required by FTA, will comply with, applicable FTA

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Intelligent Transportation System (ITS) architecture requirements; and
(18) Complied with, or to the extent required by FTA will comply with, applicable anti-drug and alcohol program requirements.

- F. Unless otherwise noted, each of the subrecipient's projects qualifies for a categorical exclusion and does not require further environmental approvals, as described in the joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," at 23 CFR 771.117(c). The state certifies that financial assistance will not be provided for any project that does not qualify for a categorical exclusion described in 23 CFR 771.117(c) until FTA has made the required environmental finding. The state further certifies that no financial assistance will be provided for a project requiring a conformity finding in accordance with the Environmental Protection Agency's Clean Air Conformity regulations at 40 CFR parts 51 and 93, until FTA makes the required conformity finding.
- G. The state will enter into a written agreement with each subrecipient stating the terms and conditions of assistance by which the project will be undertaken and completed.
- H. The state recognizes the authority of FTA, U.S. DOT, and the Comptroller General of the United States to conduct audits and reviews to verify compliance with the foregoing requirements and stipulations, and assures that, upon request, the State and its subrecipients will make the necessary records available to FTA, U.S. DOT and the Comptroller General of the United States. The state also acknowledges its obligation under 49 CFR 18.40(a) to monitor project activities carried out by its subrecipients to assure compliance with applicable Federal requirements.
- I. As required by 49 U.S.C. 5311(f), the state will expend not less than fifteen (15) percent of the Federal assistance authorized for 49 U.S.C. 5311(f) and apportioned during this fiscal year to carry out a program to develop and support intercity bus transportation, unless the chief executive officer of the state or his or her duly authorized designee certifies that the intercity bus service needs of the state are being adequately met.

16. CERTIFICATIONS AND ASSURANCES FOR THE STATE INFRASTRUCTURE BANK PROGRAM

An Applicant for a grant of Federal assistance for deposit in the State Infrastructure Bank (SIB) must provide the following certifications and assurances. In providing certifications and assurances on behalf of its prospective subrecipients, the Applicant is expected to obtain sufficient documentation from those subrecipients to assure the validity of its certifications and assurances. FTA may not award assistance for the State Infrastructure Bank program to the Applicant until the Applicant provides these certifications and assurances by selecting Categories "1" through 11," and "16."

The state serving as the Applicant for Federal assistance for the Transit Account of its State Infrastructure Bank (SIB) program authorized by either section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. 101 note, or the State Infrastructure Bank Pilot Program, 23 U.S.C. 181 note, certifies and assures that the following requirements and conditions will be fulfilled pertaining to any project financed with Federal assistance derived from the Transit Account of the SIB:

- A. The state organization serving as the Applicant (state) agrees and assures the agreement of

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the SIB and each recipient of Federal assistance derived from the Transit Account of the SIB within the state (subrecipient) that each Project financed with Federal assistance derived from the Transit Account will be administered in accordance with the:

- (1) Applicable provisions of section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. 101 note, or of the State Infrastructure Bank Pilot Program, 23 U.S.C. 181 note, and any further amendments thereto;
 - (2) Provisions of any applicable Federal guidance that may be issued;
 - (3) Terms and conditions of Department of Labor Certification(s) of Transit Employee Protective Arrangements that are required by Federal law or regulations;
 - (4) Provisions of FHWA and FTA cooperative agreement with the state to establish the state's SIB program; and
 - (5) Provisions of the FTA grant agreement with the state that obligating Federal assistance for the SIB, except that any provision of the Federal Transit Administration Master Agreement incorporated by reference into that grant agreement will not apply if it conflicts with any provision of National Highway System Designation Act of 1995, as amended, 23 U.S.C. 101 note, or section 1511 of TEA-21, as amended, 23 U.S.C. 181 note, and Federal guidance on SIBs, the provisions of the cooperative agreement establishing the SIB program within the state, or the text within the FTA grant agreement.
- B. The state agrees to comply with and assures the compliance of the SIB and each subrecipient of assistance under the SIB with all applicable requirements for the SIB program, as those requirements may be amended from time to time. Pursuant to the requirements of subsection 1511(h)(2) of TEA-21, 23 U.S.C. 181 note, applicants for assistance authorized by the state Infrastructure Bank Pilot Program agree that previous cooperative agreements entered into with states under section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. 101 note, will be revised to comply with new requirements.
- C. The state assures that the SIB will provide Federal assistance from its Transit Account only for transit capital projects eligible under section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. 101 note or under section 1511 of TEA-21, 23 U.S.C. 181 note, and that those projects will fulfill all requirements imposed on comparable capital transit projects financed by FTA.
- D. The state understands that the total amount of funds to be awarded for a grant agreement will not be immediately available for draw down. Consequently, the state assures that it will limit the amount of Federal assistance it draws down for deposit in the SIB to amounts that do not exceed the limitations specified in the underlying grant agreement or the approved project budget for that grant agreement.
- E. The state assures that each subrecipient has or will have the necessary legal, financial, and managerial capability to apply for, receive, and disburse Federal assistance authorized by Federal statute for use in the SIB, and to implement, manage, operate, and maintain the project and project property for which such assistance will support.
- F. The state assures that sufficient non-Federal funds have been or will be committed to provide the required local share.
- G. The state recognizes that the SIB, rather than the state itself, will be ultimately responsible for implementing many Federal requirements covered by the certifications the state has signed. Having taken appropriate measures to secure the necessary compliance by the SIB, the state assures, on behalf of the SIB, that:

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- (1) The SIB has complied or will comply with all applicable civil rights requirements;
 - (2) The SIB has complied or will comply with applicable requirements of U.S. DOT regulations on participation of disadvantaged business enterprise in U.S. DOT programs;
 - (3) The SIB will provide Federal assistance only to a subrecipient that is either a public or private entity recognized under state law as having the legal capability to contract with the state to carry out its proposed project;
 - (4) Before the SIB enters into an agreement with a subrecipient under which Federal assistance will be disbursed to the subrecipient, the subrecipient's project is included in the Statewide Transportation Improvement Program; all projects in urbanized areas recommended for approval are included in the annual element of the metropolitan Transportation Improvement Program in which the subrecipient is located; a certification that an opportunity for a public hearing has been provided;
 - (5) The SIB will not provide Federal financial assistance for any project that does not qualify for a categorical exclusion described in 23 CFR 771.117(c) until the required Federal environmental finding has been made. Moreover, the SIB will provide no financial assistance for a project requiring a conformity finding in accordance with the Environmental Protection Agency's Clean Air Conformity regulations at 40 CFR parts 51 and 93, until the required Federal conformity finding has been made;
 - (6) Before the SIB provides Federal assistance for a transit project, each subrecipient will have complied with the applicable transit employee protective provisions of 49 U.S.C. 5333(b) as required for that subrecipient and its project; and
 - (7) The SIB will enter into a written agreement with each subrecipient stating the terms and conditions of assistance by which the project will be undertaken and completed, including specific provisions that any security or debt financing instrument the SIB may issue will contain an express statement that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.
- H. The state recognizes that the subrecipient, rather than the state itself, will be ultimately responsible for implementing many Federal requirements covered by the certifications the state has signed. Having taken appropriate measures to secure the necessary compliance by the SIB and each subrecipient, the state assures, on behalf of each subrecipient, that each subrecipient has:
- (1) Complied or will comply with all applicable civil rights requirements;
 - (2) Complied or will comply with applicable requirements of U.S. DOT regulations on participation of disadvantaged business enterprise in U.S. DOT programs;
 - (3) Complied or will comply with Federal requirements regarding transportation of elderly persons and persons with disabilities;
 - (4) Complied or will comply with the applicable transit employee protective provisions of 49 U.S.C. 5333(b) as required for that subrecipient and its project;
 - (5) Complied or will comply with 49 CFR part 604 in the provision of any charter service provided with equipment or facilities acquired with FTA assistance;
 - (6) Complied with or will comply with applicable provisions of 49 CFR part 605 pertaining to school transportation operations;
 - (7) Viewing its demand responsive service to the general public in its entirety, complied or will comply with the requirement to provide demand responsive service to persons with disabilities, including persons who use wheelchairs, meeting the standard of equivalent

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- service set forth in 40 CFR 37.77(c), if it purchases non-accessible vehicles for use in demand responsive service for the general public;
- (8) Established or will establish a procurement system and conducted or will conduct its procurements in compliance with all applicable requirements imposed by Federal laws, executive orders, or regulations and the requirements of FTA Circular 4220.1D, "Third Party Contracting Requirements," and other implementing requirements FTA may issue;
 - (9) Complied or will comply with the requirement that its project provides for the participation of private mass transportation companies to the maximum extent feasible;
 - (10) Paid or will pay just compensation under state or local law to each private mass transportation company for its franchise or property acquired under the project;
 - (11) Complied or will comply with all applicable lobbying requirements for each application exceeding \$100,000;
 - (12) Complied or will comply with all nonprocurement suspension and debarment requirements;
 - (13) Complied with or will comply with all applicable bus testing requirements for new bus models;
 - (14) Complied with or will comply with all applicable pre-award and post-delivery review requirements;
 - (15) Complied with or will comply with all assurances FTA requires for projects involving real property;
 - (16) Complied with, or to the extent required by FTA, will comply with, applicable FTA Intelligent Transportation System (ITS) architecture requirements; and
 - (17) Complied with, or to the extent required by FTA will comply with, applicable anti-drug and alcohol program requirements.
- I. The state recognizes the authority of FTA, U.S. DOT, and the Comptroller General of the United States to conduct audits and reviews to verify compliance with the foregoing requirements and stipulations, and assures that, upon request, the SIB and its subrecipients, as well as the states, will make the necessary records available to FTA, U.S. DOT and the Comptroller General of the United States. The state also acknowledges its obligation under 49 CFR 18.40(a) to monitor project activities carried out by the SIB and its subrecipients to assure compliance with applicable Federal requirements.

##

Selection and Signature Pages follow.

Appendix A

FEDERAL FY 2002 CERTIFICATIONS AND ASSURANCES FOR FTA ASSISTANCE
(Alternative to Electronic Filing)

Name of Applicant: _____

The Applicant agrees to comply with applicable requirements of Categories 1 - 16. _____
(The Applicant may make this selection in lieu of individual selections below.)

OR

The Applicant agrees to comply with the applicable requirements of the following Categories it has selected:

1. Certifications and Assurances Required of Each Applicant. _____
2. Lobbying Certification _____
3. Certification Pertaining to Effects on Private Mass Transportation Companies _____
4. Public Hearing Certification for a Project with Substantial Impacts _____
5. Certification for the Purchase of Rolling Stock _____
6. Bus Testing Certification. _____
7. Charter Service Agreement. _____
8. School Transportation Agreement. _____
9. Certification for Demand Responsive Service _____
10. Prevention of Alcohol Misuse and Prohibited Drug Use Certification _____
11. Certification Required for Interest and Other Financing Costs _____
12. Intelligent Transportation Systems Program Assurance _____
13. Certifications and Assurances for the Urbanized Area Formula Program, the Job Access and Reverse Commute Program, and the Clean Fuels Formula Program _____
14. Certifications and Assurances for the Elderly and Persons with Disabilities Program _____
15. Certifications and Assurances for the Nonurbanized Area Formula Program _____
16. Certifications and Assurances for the State Infrastructure Bank (SIB) Program _____

(Both sides of this Signature Page must be appropriately completed and signed as indicated.)

Appendix A

FEDERAL FISCAL YEAR 2002 FTA CERTIFICATIONS AND ASSURANCES

(Required of all Applicants for FTA assistance and all FTA Grantees with an active capital or formula project)

Name of Applicant: _____

Name and Relationship of Authorized Representative: _____

BY SIGNING BELOW I, _____ (name), on behalf of the Applicant, declare that the Applicant has duly authorized me to make these certifications and assurances and bind the Applicant's compliance. Thus, the Applicant agrees to comply with all Federal statutes, regulations, executive orders, and administrative guidance required for each application it makes to the Federal Transit Administration (FTA) in Federal Fiscal Year 2002.

FTA intends that the certifications and assurances the Applicant selects on the other side of this document, as representative of the certifications and assurances in Appendix A, should apply, as required, to each project for which the Applicant seeks now, or may later, seek FTA assistance during Federal Fiscal Year 2002.

The Applicant affirms the truthfulness and accuracy of the certifications and assurances it has made in the statements submitted herein with this document and any other submission made to FTA, and acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3801 *et seq.*, as implemented by U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31 apply to any certification, assurance or submission made to FTA. The criminal fraud provisions of 18 U.S.C. 1001 apply to any certification, assurance, or submission made in connection with the Urbanized Area Formula Program, 49 U.S.C. 5307, and may apply to any other certification, assurance, or submission made in connection with any other program administered by FTA.

In signing this document, I declare under penalties of perjury that the foregoing certifications and assurances, and any other statements made by me on behalf of the Applicant are true and correct.

Signature _____ Date: _____
Name _____
Authorized Representative of Applicant

AFFIRMATION OF APPLICANT'S ATTORNEY

for _____ (Name of Applicant)

As the undersigned Attorney for the above named Applicant, I hereby affirm to the Applicant that it has authority under state and local law to make and comply with the certifications and assurances as indicated on the foregoing pages. I further affirm that, in my opinion, the certifications and assurances have been legally made and constitute legal and binding obligations on the Applicant.

I further affirm to the Applicant that, to the best of my knowledge, there is no legislation or litigation pending or imminent that might adversely affect the validity of these certifications and assurances, or of the performance of the project.

Signature _____ Date: _____
Name _____
Applicant's Attorney

Each Applicant for FTA financial assistance (except 49 U.S.C. 5312(b) assistance) and each FTA Grantee with an active capital or formula project must provide an Attorney's affirmation of the Applicant's legal capacity. The Applicant may enter its PIN in lieu of the electronic signature of its Attorney, provided the Applicant has on file this Affirmation of its Attorney in writing dated this Federal fiscal year.